



Companions & Homemakers

Home Care for Older Adults

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February 24, 2011
General Law Committee
Testimony in Support of Senate Bill 911
"An Act Concerning Homemaker Services and Homemaker-Companion Agencies"

DEAR CHAIRMAN DOYLE AND MEMBERS OF THE COMMITTEE:

My name is Martin Acevedo. I am the General Counsel of Companions & Homemakers, Inc., a 20-year old homemaker-companion agency registered with the Department of Consumer Protection. With ten offices throughout the State of Connecticut, our company cares for over 2,700 elderly consumers and employs approximately 2,300 caregivers.

In 2006 our company worked very closely with the General Assembly in crafting Public Act 06-187, the first statute regulating the home care industry in Connecticut. Today, we are pleased to testify in support of Senate Bill 911, a much needed complement to that statute.

Senate Bill 911 is designed to protect elderly home care services consumers and home care workers by requiring agencies that follow the "registry" model to make certain disclosures concerning responsibility for payroll taxes and employee status to the consumer and the worker.

A "registry" is a type of homemaker-companion agency that treats its workers as "independent contractors" in order to avoid having to pay payroll taxes,

unemployment and workers' compensation insurance, as well as Medicare and Social Security contributions.

Consumers who contract with registries are asked to make two separate payments every week for services rendered. One check is payable to the worker for all hours worked during the week. A second check goes to the registry for its "fees," usually a pre-determined charge multiplied by the number of hours worked by the caregiver during that given week. **The registry neither takes out taxes nor makes payroll contributions. Nor does it advise the consumer of his duty to do so.**

Registries do not see themselves as "employers." The problem is that **someone has to be the employer of the record of the caregiver.** Unbeknownst to the elderly consumer, anytime the consumer hires a "registry" to provide home care services, it is the consumer who winds up becoming the employer of record and assuming the responsibility to withhold taxes, provide workers' compensation, pay unemployment contributions, and match Social Security and Medicare deductions. The consumer, of course, has no idea that he or she just became an "accidental employer," largely because the registry has negligently—and many cases purposely—failed to disclose the consequences of this "arrangement" to the consumer.

At the end of the day, everyone loses. The consumer has unknowingly become the employer of record and eventually he (or his estate) will face substantial liability for unpaid taxes, the worker has been cheated out of benefits and contributions, the State of Connecticut has lost millions in this "underground economy"—one which prominent University

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of Connecticut Economics Professor Dr. William T. Alpert estimates results in billions of dollars in losses to the State on an annual basis.

This bill aims to remedy this momentous problem. It requires "registries" to provide consumers and workers alike with a notice, written in clear and unambiguous language, identifying which party is responsible for taxes, which party is the employer of the home care worker, and what are the potential legal and tax implications consumers can face if they are found to be the employer of the home care worker.

This bill is about "truth in advertising" in the home care industry and makes good law. First, it seeks to protect elderly and frail consumers against unscrupulous practices and liability for unpaid taxes, payroll contributions, and other charges employers are required to pay by state and federal law. Second, it protects workers who are otherwise cheated of Medicare, Social Security, Workers' compensation, and unemployment insurance protection, and are often coerced by registries to illegally "waive" their rights as employees. Third, the bill is cost-neutral. Fourth, the bill is consistent with Connecticut public policy against intentional misclassification of workers. With respect to this last point, we ask the Committee to add a provision to the bill making a registry's intentional misclassification of its workers a violation of the Connecticut Unfair Trade Practices Act (CUTPA).

For all these reasons, we respectfully request that this Committee raise Senate Bill 911 favorably and vote in favor of the bill becoming the law of the State of Connecticut.

I will be happy to address any questions.